

REMARKS

Claims 1-17 and 19-23 are pending in this application. Claims 1 and 19 are the independent claims. Claims 1-6, 8-15 and 20 are amended. Claim 18 was previously cancelled. Reconsideration and allowance of the present application are respectfully requested.

Applicant appreciates the Examiner's acknowledgement and consideration of the drawings filed July 26, 2006.

Applicant appreciates the Examiner's acknowledgement and receipt of the certified priority documents.

Examiner's Amendment

Pursuant to telephone conversations of January 2009, and authorization from Donald Daley in a telephone interview of January 28, 2009, amendments to claims 1, 17, and 19 have been entered by the Examiner as described on page 2 of the February 11, 2009 Office Action. Applicant acknowledges these Examiner amendments, which have been incorporated into the claims in this response.

Rejections under 35 U.S.C. §112

Claim 15 stands rejected under 35 USC §112, second paragraph, as being indefinite. This rejection is respectfully traversed.

The Examiner asserts that the limitation "second recording means" lacks antecedent basis. Applicant amends claim 15 to positively recite a "second recording means for recording a second recording," to provide antecedent basis for a "second recording." Applicant believes that claim 15 is definite as it particularly point outs

and distinctly claims the subject matter which Applicant regards as the invention. Therefore, Applicant respectfully requests that the rejections of these claims under 35 U.S.C. §112 be withdrawn.

Rejections under 35 U.S.C. §103 – Lottici

Claims 1, 4, 7-9, 12-15, 19, 21, and 22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over European Patent 0 872 724 (“Lottici”). This rejection is respectfully traversed.

With regard to independent claim 1, the Examiner asserts that Lottici teaches all of the claim limitations with the exception that Lottici fails to explicitly teach determining and comparing the rotational orientation. The Examiner asserts that column 5, line 47 to column 6, line 43 of Lottici discloses a rotational orientation determining means, and this portion of the disclosure of Lottici is sufficient to perform a function of analyzing image slices and identifying components that would indicate orientation. The Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention to determine and compare the rotational orientation to better analyze the labels. Applicant asserts that Lottici does not teach or suggest “an orientation determining means for determining a rotational orientation of the container relative to the first recording means,” as recited in claim 1.

Applicant directs the Examiner's attention to at least column 5, line 47 to column 6, line 43 of Lottici which describes rotation of a bottle along a conveyor during while images of the lateral surface of the bottle are “captured” and these images are transferred to a processing board. An image “slice” of the bottle may be taken, and arrangement of the image slices may be compared against previously

acquired image slices of the same bottle, or image slices of a sample bottle (in the case where the bottle includes a high repeatability of the external appearance of the bottle). Comparison between the bottle image and a reference image (either a previously acquired image of the same bottle, or an image of a sample bottle) are made to ensure that differences between the images are less than a predetermined maximum limit to ensure that the bottle is acceptable. Applicant further directs the Examiner's attention to column 3, lines 11-28 which describes movement of bottles along a conveyor (as shown in FIGS. 1 and 2), while images of the bottle are acquired. Lottici discloses that the bottle moves along a conveyor in a predetermined travel zone, while experiencing a predetermined rotation, ensuring that the bottle is oriented in a "predetermined angle" while images of the bottle are acquired. Applicant therefore asserts that the orientation of the bottle is known, when images of the bottle are acquired. Therefore, Applicant asserts that Lottici does not teach or suggest, or even have a reason to contemplate providing an "orientation determining means" for determining a rotational orientation of the container, as recited in claim 1. Therefore, Applicant asserts that Lottici does not teach or suggest "an orientation determining means for determining a rotational orientation of the container relative to the first recording means," as recited in claim 1.

Applicant further asserts that Lottici does not teach or suggest "an irradiating means for irradiating the container with at least a first wavelength, a first recording means for recording a radiation sample of radiation during interaction of the radiation with at least a part of the container," as recited in claim 1. Applicant draws the Examiner's attention to at least column 1, lines 13-18 which explains that Lottici's analysis of a container is specific only to the external appearance of the container.

Specifically, Lottici analyzes the shape of the container, the color, the presence and position of labels, the completeness of decorative effects, recognition of writing, codes and images, and the presence and orientation of caps for the container, as described in column 1, lines 13-18. As described in column 4, lines 37-42, Lottici only discloses the use of an illumination device 14 (see FIG. 1), in order to analyze the external appearance of the container. Because Lottici only uses an illumination device, Applicant therefore asserts that Lottici does not teach or suggest, or even contemplate use of an “irradiating means,” as recited in claim 1, to provide radiation of a first wavelength for the purpose of detecting contamination. Specifically, Applicant asserts that Lottici does not irradiate the container, as Lottici does not pertain to the detection of contamination of a container, as recited in claim 1.

With regard to independent claim 19, Applicant asserts that claim 19 contains features similar to claim 1 such that at least the same arguments can be made.

For at least the reasons stated above related to independent claims 1 and 19, Applicant asserts that these claims are patentable. Due at least to the dependence of claims 4, 7-9, 12-15, 21, and 22 on the independent claims, Applicant also asserts that these claims are patentable. Therefore, Applicant respectfully requests that this art ground of rejection of these claims under 35 U.S.C. §103 be withdrawn.

Rejections under 35 U.S.C. §103 – Lottici in view of various combinations of

Axelrod, Jacobs and Krieg

Claims 2, 6, 20, and 23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lottici in view of U.S. Patent 5,444,535 (“Axelrod”). Claims 5, 10, and 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lottici in

view of Axelrod, and in further view of U.S. Patent 4,160,601 ("Jacobs"). Claim 17 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Lottici in view of U.S. Patent 5,405,014 ("Krieg"). This rejection is respectfully traversed.

The Examiner uses Axelrod to teach emitting radiation of at least a second wavelength. The Examiner uses Jacobs to teach a filter means for making recordings in optically independent manner with the recording means on the basis of radiation of the first or of the second wavelength. The Examiner uses Krieg to teach the irradiating means irradiate the container substantially from the top or the bottom. With regard to independent claims 1 and 19, Applicant asserts that these claims are patentable over Lottici for at least the reasons stated above. Applicant asserts that a review of Axelrod, Jacobs, and Krieg, indicates that these references do not remedy the stated deficiencies of Lottici, as described above. Therefore, Applicant asserts that independent claims 1 and 19 are patentable over any and all combinations of Lottici, Axelrod, Jacobs, and Krieg.

For at least the reasons stated above related to independent claims 1 and 19, Applicant asserts that these claims are patentable. Due at least to the dependence of claims 2, 5, 6, 10, 11, 17, 20, and 23 on the independent claims, Applicant also asserts that these claims are patentable. Therefore, Applicant respectfully requests that this art ground of rejection of these claims under 35 U.S.C. §103 be withdrawn.

Allowable Subject Matter

Applicant notes with appreciation the Examiner's indication that claims 3, 4, and 16 would be allowable if rewritten in independent form including all of the limitations of

the base claim and any intervening claims. Applicant also believes that all of claims 1, 2, 5-15, 17, and 19-23 are also patentable for at least the reasons stated above.

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CONCLUSION


In view of the above remarks and amendments, Applicant respectfully submits that each of the rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Pursuant to 37 CFR §§ 1.17 and 1.136(a), Applicants petition for a three (3) month extension of time for filing a reply to the February 11, 2009 Office Action, and submit the required \$1110 extension fee herewith.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,
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By 
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